

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**January 27, 2003**

At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Raye, Associate Justice; Morrison, Associate Justice; Robie, Associate Justice; and Facey, Bailiff. Calendar called.

**C040825 CASSIDY v. CASSIDY**

Cause called. Patrick A. Cassidy, In Pro Per appellant, argued for himself. James B. Carr, argued for respondent. Cause submitted.

At 9:57 a.m., the court recessed. At 9:58 a.m., the court reconvened.

**C041090 SANTA TERESA CITIZEN ACTION GROUP et al. v. CALIFORNIA ENERGY COMMISSION and CALPINE CORPORATION**

Cause called. Stephan C. Volker argued for appellants. William M. Chamberlain argued for respondent, California Energy Commission. Jeffrey D. Harris argued for respondent, Calpine Corporation. Cause submitted.

At 10:30 a.m., the court recessed. At 10:35 a.m., the court reconvened.

**C041423 PARKER v. WORKER'S COMPENSATION APPEALS BOARD et al.**

Cause called. Brian A. Hill argued for petitioner. Douglas B. Weill argued for respondents. Cause submitted.

At 11:00 a.m., the court recessed. At 11:11 a.m., the court reconvened with Raye, Associate Justice; Callahan, Associate Justice; and Robie, Associate Justice.

**C040598 REYNOLDS v. SIERRACITIES.COM**

Cause called. Rose I. Cabrera argued for appellant. Richard M. Glovin argued for respondent. Cause submitted.

At 11:42 a.m., the court recessed. At 2:03 p.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C038253 THE PEOPLE v. TAYLOR**

Cause called. Joseph C. Shipp, court appointed counsel, argued for appellant. Peter H. Smith, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:30 p.m., the court recessed. At 2:33 p.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Callahan, Associate Justice.

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**January 27, 2003, continued**

**C040828      CESNALIS v. CESNALIS**

Cause called. Randall L. Gephart argued for appellant. Charles E. Schneider argued for respondent. Cause submitted.

At 2:50 p.m., the court recessed until 9:30 a.m. Tuesday, January 28, 2003.

**C040300      THE PEOPLE v. CONTRERAS      (Not for Publication)**

The judgment is modified...In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.

Kolkey, J.

We concur:    Sims, Acting P.J.  
                  Nicholson, J.

**C040539      THE PEOPLE v. THORNTON      (Not for Publication)**

The judgment is affirmed.

SIMS, Acting P.J.

We concur:    Nicholson, J.  
                  Kolkey, J.

**C040974      THE PEOPLE v. McDANIEL      (Not for Publication)**

The judgment is affirmed.

SIMS, Acting P.J.

We concur:    Nicholson, J.  
                  Hull, J.

**C041222      THE PEOPLE v. ADAMS      (Not for Publication)**

Counts one through six are dismissed. As modified, the judgment is affirmed.

ROBIE, J.

We concur:    Blease, Acting P.J.  
                  Callahan, J.

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We concur: ROBIE, J.  
Blease, Acting P.J.  
Callahan, J.

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At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Raye, Associate Justice; Morrison, Associate Justice; Robie, Associate Justice; and Rios, Bailiff. Calendar called.

**C041050      DIAMOND CREEK PARTNERS, LTD., et al. v. CITY OF LINCOLN et al.**

Cause called. J. William Yeates argued and Mary U. Akens, appeared only for appellants. Harriet A. Steiner argued for respondents. Cause submitted.

At 9:55 a.m., the court recessed. At 9:58 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

**C038590      THE PEOPLE v. WILLIAMS**

Cause called. Philip M. Brooks, court appointed counsel, argued for appellant. Catherine Chatman, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:15 a.m., the court recessed. At 10:20 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Nicholson, Associate Justice.

**C038558      BOONE et al. v. CALIFORNIA LAND TITLE COMPANY OF NEVADA COUNTY  
C038726      BOONE et al. v. CALIFORNIA LAND TITLE COMPANY OF NEVADA COUNTY**

Cause called. Jeffrey Charles Ingram argued for appellant. Phillip R. Bonotto argued for respondents. Cause submitted.

At 10:50 a.m., the court recessed. At 10:54 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Nicholson, Associate Justice.

**C037053      THE PEOPLE v. SLIGHTOM**

Cause called. Maribeth Halloran, court appointed counsel, argued for appellant. John A. Thawley, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:24 a.m., the court recessed. At 2:02 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; Morrison, Associate Justice.

**C038754      TRINKLE v. CALIFORNIA STATE LOTTERY**

Cause called. William D. Thomson argued for appellant. Susan R. Denious argued for respondent. Cause submitted.

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**January 28, 2003, continued**

At 2:20 p.m., the court recessed. At 2:22 p.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Kolkey, Associate Justice.

**C041456      RICCI v. TOLLEFSON, et al.**

Cause called. Brendan J. Begley argued for appellants and submitted additional citations. Roger M. Miller argued for respondents. Cause submitted.

At 2:57 p.m., the court recessed. At 3:00 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Raye, Associate Justice.

**C039942      HOWARD JARVIS TAXPAYERS ASSOCIATION et al. v. CITY OF ROSEVILLE**

Cause called. Jay-Allen Eisen argued for appellant. Timothy A. Bittle argued for respondents. Cause submitted.

**C040158      EATON VANCE DISTRIBUTORS, INC., et al. v. GRAINGER et al.**

Cause called. James M. Finberg argued for appellants. William R. Warne argued for respondent Taylor. Erin E. Kelly argued for respondent Bullock etc. Thomas M. Peterson argued for respondent Thomas Jr. et al. Howard M. Hoffman argued for respondent Bragagnolo. Carl E. Poli and Geoffrey A. Goodman appeared only for respondents Grainger et al. Cause submitted.

At 4:19 p.m., court recessed until 9:30 a.m., Tuesday, February 18, 2003.

**C032511      THE PEOPLE v. PITTMAN et al.                      (Not for Publication)**

As to Humphrey, the conviction for petty theft with a prior (§ 666) is reversed; in all other respects the judgment is affirmed. As to Pittman, the judgment is affirmed.

MORRISON, J.

We concur:    Nicholson, Acting P.J.  
                     Hull, J.

**C034998      THE PEOPLE v. EGY                                      (Not for Publication)**

The judgment is affirmed.

RAYE, J.

We concur:    Davis, Acting P.J.  
                     Nicholson, J.

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- C038248      THE PEOPLE v. WOMACK      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, Acting P.J.  
I concur:      Kolkey, J.  
I concur, but as to part I in the result only...  
Hull, J.
- C038721      THE PEOPLE v. SMITH      (Not for Publication)**  
The judgment is affirmed.  
KOLKEY, J.  
We concur:      Blease, Acting P.J.  
Nicholson, J.
- C039714      THE PEOPLE v. COX      (Not for Publication)**  
The condition of probation prohibiting defendant from using or possessing controlled substances including marijuana is stricken. The case is remanded to the trial court for a new hearing limited to imposition of a probation condition barring the use or possession of controlled substances without a prescription by a physician and barring use and possession of marijuana. The clerk shall prepare a corrected minute order to include any new probation conditions and forward a certified copy to the probation department. Counts 2 and 4 are dismissed. In all other aspects, the judgment is affirmed.  
SIMS, Acting P.J.  
We concur:      Nicholson, J.  
Kolkey, J.
- C040341      THE PEOPLE v. GIL      (Not for Publication)**  
The judgment is affirmed.  
Nicholson, Acting P.J.  
We concur:      Morrison, J.  
Callahan, J.
- C040438      THE PEOPLE v. RUTTMAN      (Not for Publication)**  
The judgment is modified ... The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.  
CALLAHAN, J.  
We concur:      Blease, Acting P.J.  
Morrison, J.

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- C039252      HARVEY v. MORENO      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur:    Sims, J.  
                 Hull, J.
- C040262      MACKEY et al. v. DEPARTMENT OF CORRECTIONS et al.      (Certified for Partial Publication)**  
The judgment is affirmed. **(CERTIFIED FOR PARTIAL PUBLICATION)**  
HULL, J.  
We concur:    Raye, Acting P.J.  
                 Callahan, J.
- C040855      ABRAMS v. ABRAMS      (Certified for Publication)**  
The portion of the custody order awarding mother attorney fees as sanctions under section 271 is reversed, and the matter is remanded for further proceedings consistent with this opinion. In all other respects, the custody order is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 26 (a) (1).)  
SCOTLAND, P.J.  
We concur:    Davis, J.  
                 Callahan, J.
- C039413      THE PEOPLE v. WILLIAMS      (Not for Publication)**  
THE COURT:  
The opinion filed herein on January 23, 2003, shall be modified as follows:...  
This modification does not change the judgment.  
FOR THE COURT:  
SIMS, Acting P.J.  
RAYE, J.  
MORRISON, J.

**January 29, 2003**

- C034068      THE PEOPLE v. NORTHERN      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Kolkey, J.

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**January 29, 2003, continued**

- C037948      THE PEOPLE v. SAIZ      (Not for Publication)**  
The finding that defendant suffered a prior strike conviction and the sentence based thereon are vacated. The matter is remanded for resentencing, and to allow the People to file, within 30 days of the issuance of the remittitur, a written demand for a new (bench) trial on the prior strike conviction issues of whether defendant personally inflicted great bodily injury or personally used a dangerous or deadly weapon. If the superior court does not receive a timely demand, after the 30th day it shall dismiss the prior strike conviction allegation. In all other respects, the judgment is affirmed.  
DAVIS, J.  
We concur:    Blease, Acting P.J.  
                 Morrison, J.
- C038943      THE PEOPLE v. HARRIS      (Not for Publication)**  
The judgment is affirmed.  
KOLKEY, J.  
We concur:    Sims, Acting P.J.  
                 Nicholson, J.
- C040951      THE PEOPLE v. SAMPSON      (Not for Publication)**  
The judgment of conviction on count three for misdemeanor false imprisonment is affirmed. The judgment of conviction on count one for willful infliction of corporal injury (Pen. Code, § 273.5, subd. (a)) is reversed and remanded for a new trial.  
ROBIE, J.  
We concur:    Morrison, Acting P.J.  
                 Kolkey, J.
- C038678      HAGAN ENGINEERING, INC. v. MILLS et al.      (Not for Publication)**  
The judgment (order granting motion for injunction and other relief) is reversed and the cause is remanded to the superior court with directions to deny Hagan's motion for lack of subject matter jurisdiction. Upon finality of this decision, the stay order previously issued by this court is vacated. Hagan shall pay Mills the costs of this appeal. (Cal. Rules of Court, rule 26(a).)  
MORRISON, J.  
We concur:    Davis, Acting P.J.  
                 Callahan, J.

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**January 29, 2003, continued**

- C039102      SAMANTHA H. v. FIELDS      (Not for Publication)**  
The judgment is affirmed. Respondent Mildred Fields shall recover her costs on appeal.  
SIMS, Acting P.J.  
We concur:    Nicholson, J.  
                 Raye, J.
- C040059      RICKABAUGH v. ALBRECHT, as Trustee, etc,      (Not for Publication)**  
The order awarding costs to defendant Hildegard Albrecht, as Trustee of the Albrecht Trust, is amended to reduce the amount from \$9,529.50 to \$8,745.50. In all other respects, the order is affirmed. Costs on appeal are awarded to defendant Hildegard Albrecht, as Trustee of the Albrecht Trust. (Cal. Rules of Court, rule 26(a).)  
KOLKEY, J.  
We concur:    Blease, Acting P.J.  
                 Raye, J.
- C041048      AMARAL v. BARRIGA      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Nicholson, Acting P.J.  
                 Kolkey, J.

**January 30, 2003**

- C040044      THE PEOPLE v. WOODWARD      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur:    Sims, Acting P.J.  
                 Callahan, J.
- C041765      THE PEOPLE v. LUNA      (Not for Publication)**  
The judgment is affirmed.  
Blease, Acting P.J.  
We concur:    Morrison, J.  
                 Callahan, J.



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**January 31, 2003, continued**

- C041041      THE PEOPLE v. FANNING      (Not for Publication)**  
The judgment is modified...  
As modified, the judgment is affirmed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Callahan, J.
- C041510      THE PEOPLE v. MARQUEZ      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the order of probation to reflect these modifications and to state that the probation supervision fee is \$10 per month.  
SCOTLAND, P.J.  
We concur:    Raye, J.  
                 Morison, J.
- C041571      THE PEOPLE v. REDDING      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Callahan, J.
- C041610      THE PEOPLE v. RANDOLPH      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, J.  
We concur:    Davis, Acting P.J.  
                 Callahan, J.
- C041770      THE PEOPLE v. TAYLOR      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Callahan, J.
- C038386      MARTIN v. ALEXANDER et al.      (Not for Publication)**  
The judgment is affirmed. Martin shall pay forthwith to defendant Alexander the sum of \$8,288 and to the clerk of this court the sum of \$10,000, all as sanctions for a frivolous appeal. Defendant Alexander shall receive her costs on appeal.  
SIMS, Acting P.J.  
We concur:    Davis, J.  
                 Kolkey, J.





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**The Minutes**

**January 31, 2003, continued**

**C040555      THE PEOPLE v. DAVIS**  
**BY THE COURT:**

Appellant's motion to recall the remittitur is granted. The remittitur issued on December 31, 2002, is ordered recalled, and the trial court clerk is directed to return the original remittitur to this court. The opinion of this court filed on October 29, 2002, and submission of the case are vacated due to the defendant's failure to receive a complete copy of the opinion. The appeal is reinstated.

Upon receipt of the original remittitur from the trial court, the cause will be resubmitted, and the clerk of this court is directed to refile the opinion in the above matter.

SCOTLAND, P.J.